

BEFORE THE

**Federal Communications Commission**

WASHINGTON, D. C. 20554

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FEDERAL COMMUNICATIONS COMMISSION

In the Matter of )  
 )  
Amendment to the Commission's ) WT Docket No. 95-157  
Rules Regarding a Plan for )  
Sharing the Costs of Microwave )  
Relocation )

To: The Commission

**REPLY COMMENTS OF  
THE LOS ANGELES COUNTY SHERIFF'S DEPARTMENT  
AND  
THE COUNTY OF LOS ANGELES, INTERNAL SERVICES DEPARTMENT**

The Los Angeles County Sheriff's Department and the County of Los Angeles, Internal Services Department (collectively referred to herein as "the County"), by its attorneys, hereby submits the following reply to comments filed in response to the Commission's Notice of Proposed Rulemaking, FCC 95-426 (released October 13, 1995), in the above-captioned proceeding.

The County's initial comments expressed its opposition to many of the changes to the microwave relocation rules described in the Commission's Notice. Numerous other microwave incumbents and trade associations joined in that opposition, and the County supports their comments.<sup>1/</sup>

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<sup>1/</sup> See, e.g., Comments of the Association of Public-Safety Communications Officials-International, UTC, Association of American Railroads, American Petroleum Institute, City of San Diego, American Gas Association, and American Public Power Association.

Some of the comments filed by the PCS industry, however, want the Commission to cut back even further its commitment to a fair and balanced negotiation process. The County strongly opposes these excessive proposals.

The County objects to any weakening of the microwave relocation rules adopted in ET Docket 92-9. The original rules in that docket included an exemption from involuntary relocation for public safety licensees such as the County. While the Commission later repealed that exemption over the County's objection, the final rules included a five-year voluntary/mandatory negotiation procedure intended to mitigate at least some of the harm caused by forced relocation. Now the PCS industry would have the Commission peel back those protections and expose public safety agencies to substantial financial costs, disruption to systems and operations, and hardship that would not have occurred were it not for the reallocation of the 2 GHz bands.

The County urges the Commission to reject not only the "clarifications" in the Notice addressed in the County's initial comments, but also the more excessive and arbitrary changes proposed in some of the PCS industry comments (which, in any event, are outside the scope of this

proceeding<sup>2/</sup>). These additional proposed changes include elimination or modification of the voluntary negotiation period, and a requirement that incumbents who fail to enter into relocation agreements pay their own relocation expenses.

The Commission must reject these proposals and maintain the five-year negotiation period in its current form, including the three-year voluntary period during which negotiations are encouraged, but not required. Forcing incumbents to negotiate immediately would impose major burdens and disruptions on public safety agencies that are already strapped for resources. A three-year voluntary period, followed by a two-year mandatory period, is necessary to minimize the impact on public safety agencies of the negotiation and relocation process, and to accommodate the often lengthy multiple levels of local agency approvals necessary for relocation. The Commission must also preserve the ability of public safety agencies to be fully compensated for the relocation, regardless when or how that relocation occurs.

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<sup>2/</sup> The Commission stated in the Notice that

In seeking comment on these issues, we observe at the outset that the existing relocation procedures for microwave incumbents adopted in the Emerging Technologies docket were the product of extensive comment and deliberation prior to the initial licensing of PCS. We emphasize that our intent is not to reopen that proceeding here, because we believe that the general approach to relocation in our existing rules is sound and equitable.

Notice at ¶3.

The PCS industry makes much of the billions of dollars that it has invested in obtaining licenses, arguing that the Commission should facilitate more rapid clearing of the 2 GHz frequencies to speed up the return on their investment. This puts the cost and burden of relocation on the wrong party. PCS licensees placed their auction bids in full knowledge of the presence of incumbent microwave licensees in the band and of the relocation rules adopted in ET Docket 92-9. They knew that relocation would be difficult, and that it might take several years to reach agreements with some incumbents. Having gained access to the spectrum on the premise that existing microwave licensees would not suffer financial or operational losses, PCS licensees should not now be permitted to change the basic ground rules of the negotiation process for their financial benefit.<sup>3/</sup>

In any event, the revenue for PCS auctions and the perceived benefits of PCS to the public, while not insubstantial, are not sufficient reasons to change the current relocation rules. Far more important to the public interest are the critical police, fire, emergency medical and other public safety communications operations that now occupy the 2 GHz band. These public safety operations must not be exposed to any expense or disruption.

The Commission should also reject proposed changes to the public safety definition, which appear to have been

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<sup>3/</sup> The County notes that bids in the C Blocks are running well ahead of projections, debunking claims that the problems of microwave relocation would reduce auction revenues.

offered for no reason other than to reduce the number of public safety incumbents. In particular, the County opposes Pacific Bell's unexplained recommendation that the percentage of licensed capacity used for public safety operations be the benchmark for determining whether an incumbent microwave system qualifies as a public safety system. The Commission should instead look to the percentage of actual use on that system which is for public safety operations.

CONCLUSION

For the reasons discussed above and in the County's initial Comments, the Commission should reject the proposed changes to the microwave relocation rules.

Respectfully submitted,

LOS ANGELES COUNTY SHERIFF'S  
DEPARTMENT AND THE COUNTY OF LOS  
ANGELES, INTERNAL SERVICES  
DEPARTMENT

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